

AN ORDINANCE **97910**

DECLARING THE OLD BROOKSIDE SUBDIVISION DRAINAGE IMPROVEMENTS PROJECT ("PROJECT"), LOCATED IN COUNCIL DISTRICT 3, TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THE PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: APPROXIMATELY 1,250.00 SQUARE FEET (0.028 ACRES) OUT OF LOT 8, AND ALL OF LOTS 9, 10, 11 AND 27, AND APPROXIMATELY 800.00 SQUARE FEET (0.018 ACRES) OUT OF LOT 28, ALL OUT OF BLOCK 1, N.C.B. 10883; APPROXIMATELY 1,662.48 SQUARE FEET (0.038 ACRES) OUT OF LOT 14, AND ALL OF LOTS 15, 32, 33 AND APPROXIMATELY 1,674.96 SQUARE FEET (0.038 ACRES) OUT OF LOT 34, ALL OUT OF BLOCK 2, N.C.B. 10884; LOT 3, BLOCK 3, N.C.B. 10885; AND BEING APPROXIMATELY 6,991.89 SQUARE FEET (0.160 ACRES) OUT OF TRACT 5A, N.C.B. 10914; ALL IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS, FOR A PUBLIC PURPOSE AS PART OF THIS PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$131,900.00 FROM THE STORM WATER OPERATING FUND FOR THE PROJECT AND MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEYS FEES; AUTHORIZING THE CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE WITH AND ACQUIRE THE PROPERTY FROM THE OWNERS ON THE APPROVED TERMS; AND AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY.

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WHEREAS, the City of San Antonio ("City") desires to obtain right of way for the construction of drainage improvements as part of the Old Brookside Subdivision Drainage Improvements Project; and

WHEREAS, the construction of the drainage improvements is a necessary public project; and

WHEREAS, the Project is in the best interest of the health, safety and welfare of the public; and

WHEREAS, it is necessary to construct a portion of the Project upon property that is privately owned; and

WHEREAS, it is further necessary to obtain and acquire the fee simple title and/or an easement interest in 13 parcels of land for use as part of the Project and the property to be acquired is described as follows:

Parcel No.	Legal	Block	NCB
16895	Being approximately 1,250.00 square feet (0.028 acres) out of Lot 8, Block 1, N.C.B. 10883, Brookside Subdivision as recorded in Volume 3025, Page 40 of the Deed and Plat Records of Bexar County, Texas	1	10883
16901	Lot 9, Block 1, N.C.B. 10883	1	10883
16902	Lot 10, Block 1, N.C.B. 10883	1	10883
16903	Lot 11, Block 1, N.C.B. 10883	1	10883
16904	Lot 27, Block 1, N.C.B. 10883	1	10883
16894	Being approximately 800.00 square feet (0.018 acres) out of Lot 28, Block 1, N.C.B. 10883, Brookside Subdivision as recorded in Volume 3025, Page 40 of the Deed and Plat Records of Bexar County, Texas	1	10883
16897	Being approximately 1,662.48 square feet (0.038 acres) out of Lot 14, Block 2, N.C.B. 10884, Brookside Subdivision as recorded in Volume 3025, Page 40 of the Deed and Plat Records of Bexar County, Texas	1	10884
16898	Lot 15, Block 2, N.C.B. 10884	2	10884
16900	Lot 32, Block 2, N.C.B. 10884	2	10884
16899	Lot 33, Block 2, N.C.B. 10884	2	10884
16896	Being approximately 1,674.96 square feet (0.038 acres) out of Lot 34, Block 2, N.C.B. 10884	2	10884
16905	Lot 3, Block 3, N.C.B. 10885	3	10885
16893	Being approximately 6,991.89 square feet (0.160 acres) out of Tract 5A, N.C.B. 10914 as recorded in Volume 4459, Page 275-276 of the Deed and Plat Records of Bexar County, Texas		10914

WHEREAS, in order to proceed with the acquisition of the property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

WHEREAS, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

WHEREAS, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

WHEREAS, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Old Brookside Subdivision Drainage Improvements Project is hereby declared to be a necessary public project.

SECTION 2. The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to and/or easement(s) in certain privately owned real property, by negotiation and/or

condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Old Brookside Subdivision Drainage Improvements Project.

SECTION 3. A specific public necessity exists to acquire by negotiation and/or condemnation, if necessary, the property more specifically described in Attachment I attached hereto and incorporated herein for all purposes. Collectively, the properties may be referred to as the "Property."

SECTION 4. The approved compensation for the Property is shown in Attachment II which is attached hereto and incorporated herein for all purposes.

SECTION 5. The budget in fund 29-023001, Drainage Detention Project, shall be revised by reducing index code 929695, entitled Trf to Cap Proj-Reg Stormwater Facility, by the amount of \$131,900.00, and increasing index code 929737, entitled Trf to Fund 40-006023 Brookside Drainage. The amount of \$131,900.00 is authorized to be transferred from fund 29-023001 to fund 40-006023.

SECTION 6. The budget in fund 40-006023, Old Brookside Subdivision Drainage Project, shall be revised by increasing index code 137703, entitled Trf Fr 29-023001 Brookside, by the amount of \$131,900.00.

SECTION 7. The amount of \$53,900.00 is appropriated in Fund 40-006023, Old Brookside Subdivision Drainage Project; in Index Code 313098, entitled Land Acquisition, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses.

SECTION 8. The amount of \$19,500.00 is appropriated in Fund 40-006023, Old Brookside Subdivision Drainage Project, in Index Code 313106, entitled Miscellaneous (Awnings, Fences, Etc.), and is authorized to be encumbered and made payable for miscellaneous expenses.

SECTION 9. The amount of \$6,500.00 is appropriated in Fund 40-006023, Old Brookside Subdivision Drainage Project, in Index Code 505545, entitled Title Fees, and is authorized to be encumbered and made payable for miscellaneous title fee expenses.

SECTION 10. The amount of \$37,700.00 is appropriated in Fund 40-006023, Old Brookside Subdivision Drainage Project, in Index Code 313122, entitled Legal Fees, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses.

SECTION 11. The amount of \$13,000.00 is appropriated in Fund 40-006023, Old Brookside Subdivision Drainage Project; in Index Code 313130, entitled Lender Fees, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses.

SECTION 12. The amount of \$1,300.00 is appropriated in Fund 40-006023, Old Brookside Subdivision Drainage Project, in Index Code 313148, entitled Right of Entry Fees, and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses.

SECTION 13. The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 2, above, to execute sales agreements purchasing the property from the owners as the owner's are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal and equitable title as identified according to the procedure

adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.

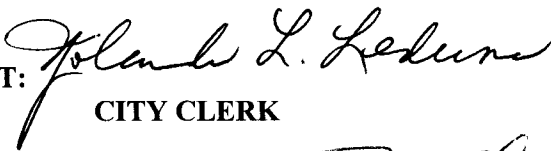
SECTION 14 That in the event that the City staff is unable to acquire one or more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Patterson, L.L.P. as special counsel as may be needed from time to time and to pay the for services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.


SECTION 15. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific Index Codes and fund numbers as necessary to carry out the purpose of this Ordinance.

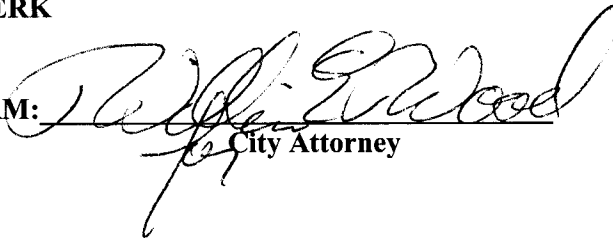
SECTION 16. A copy of the respective instruments shall be submitted to the City Attorney for approval under Section 54, Charter of the City of San Antonio. If the City Attorney approves the instrument then the City of San Antonio accepts title to the respective property upon closing of this transaction.

SECTION 17. This Ordinance shall be effective on August 17, 2003.

PASSED AND APPROVED this the 7th day of August, 2003.

ATTEST: 
CITY CLERK


M A Y O R
EDWARD D. GARZA

APPROVED AS TO FORM: 
City Attorney